



U.S. Army Corps  
of Engineers  
Buffalo District  
CELRB-TD-R

# Public Notice

Applicant: Genesee  
Gateway Local  
Development Corp.  
Genesee County EDC

Published: June 19, 2015  
Expires: July 20, 2015

Application No: 2010-00964  
Section: NY

All written comments should reference the above Application No. and be addressed to:  
**US Army Corps of Engineers, Buffalo District**  
**(Attn:) Molly Connerton**  
**1776 Niagara Street**  
**Buffalo, NY 14207**

**THE PURPOSE OF THIS PUBLIC NOTICE IS TO SOLICIT COMMENTS FROM THE PUBLIC REGARDING THE WORK DESCRIBED BELOW. NO DECISION HAS BEEN MADE AS TO WHETHER OR NOT A PERMIT WILL BE ISSUED AT THIS TIME.**

**Application for Permit under Authority of**  
**Section 10 of the Rivers and Harbors Act of 1899 and**  
**Section 404 of the Clean Water Act (33 U.S.C. 1344).**

APPLICANT: Genesee Gateway Local Development Corporation and Genesee County Economic Development Center (EDC)

WATERWAY & LOCATION: Tributaries to the Erie Canal (Tonawanda Creek) and federal wetlands and streams located on a 1,280 acre parcel in the Town of Alabama, Genesee County, NY. It is located along NYS Highway 77/63 approximately 5 miles north of the I-90 (NYS Thruway exit 48A) in the Town of Alabama. The project area is bounded by Judge Road on the south, Lewiston Road on the north, NYS Highway 77/63 on the east and the Tonawanda Seneca Nation on the west (Sheet 1 of 20).

LATITUDE & LONGITUDE: Latitude North: 43°05'09"  
Longitude West: 78°24'15"

EXISTING CONDITIONS: The 1,280 acre parcel is primarily agriculture lands with the majority of the remaining area undeveloped uplands, wetlands and streams. The site can be characterized as having gentle to moderate slopes, existing wetlands, several ephemeral streams or drainages and one perennial stream (Whitney Creek). The project site does not lie within any



FEMA 100-year floodplain. A small percentage of the site is developed with existing utility line rights-of-way, roads, and residential homes and buildings. Of note, immediately adjacent to the project site is the Tonawanda Seneca Nation and the USFWS Iroquois National Wildlife Refuge lies approximately ½ mile to the north of the project site.

Description of delineation of waters of the US, if applicable: A field delineation of wetlands and streams on the project site was conducted in spring 2010 and was officially verified on April 28, 2011, by USACE personnel. 52 wetlands and 30,053 linear feet of streams were identified on site (Sheet 2 of 20). An Approved JD dated February 12, 2012 was provided to the applicant indicating the project site contained 25 jurisdictional wetlands (115 total acres) and 7 jurisdictional streams (30,053 total linear feet). 27 wetlands were determined to be isolated and not subject to federal jurisdiction. The Approved JD also includes federal jurisdictional wetlands identified in the NYSDEC John White WMA in the southwestern part of the project site, but this area is no longer part of the project site.

**PROPOSED WORK:** The proposed project for the WNY STAMP (Western New York Science & Technology Advanced Manufacturing Park) site involves the construction of a large 450 mm semiconductor manufacturing facility providing over 6 million square feet of advanced manufacturing technology space and related uses in a sustainable development campus setting in the Town of Alabama, Genesee County, New York. The project will include the phased development of three semiconductor manufacturing facilities (FABs), flex space and support facilities, office space, retail support uses, a multi-use Town Hall building site and a network of open space and trails that meander throughout the property. Full development of the WNY STAMP site is expected to take place in phases over a 20 year period. The first phase of the development is projected at approximately 1 million square feet of semiconductor manufacturing space. This phase will be located on the low-lying portion of the project site. Sheet 3 of 20 illustrates the proposed development which includes the factories, their related component and storage areas, bulk high purity gases, a service yard for delivery and movement of components, large staging areas for assembly and construction vehicles (Craft Assembly Area) parking for employees and other vehicles, stormwater management areas and ample setbacks and buffer zones from adjacent development. The proposed project will result in the permanent loss of 4.24 acres of federally regulated emergent and scrub shrub wetlands and 9,442 linear feet of ephemeral stream on the main project site.

The proposed project will require offsite infrastructure improvements including electric and natural gas connections, water supply mains, wastewater sewer mains, telecommunications and data lines and roadway improvements. For additional information on these infrastructure improvements, please contact Molly Connerton, by calling (716) 879-4304, or by e-mail at: [molly.a.connerton@usace.army.mil](mailto:molly.a.connerton@usace.army.mil).

#### **PROJECT PURPOSE:**

Basic: manufacturing

Overall: To construct a 450mm semiconductor manufacturing facility in the Genesee County area.

Water Dependency Determination: The discharge of fill material into wetlands for the purpose of constructing a semiconductor manufacturing facility is not a water dependent activity because it



does not require access or siting within the special aquatic site in question to fulfill its basic purpose. Therefore, practicable alternatives that do not involve special aquatic sites are presumed to be available, unless clearly demonstrated otherwise.

**AVOIDANCE AND MINIMIZATION INFORMATION:** Several alternatives (no build, off-site and on-site alternatives) were evaluated to avoid and minimize impacts to wetlands and streams for the project as discussed below.

**No build Alternative:** This would avoid all wetlands and streams within the project area but it is inconsistent with the basic project purpose of increasing economic vitality in Genesee County. The no build alternative won't provide the potential significant financial and public utility benefits to the Town of Alabama as compared with the Preferred Alternative.

**Off-site Alternatives within Genesee County (Sheet 6 of 20):** Several factors were looked at in comparing off-site alternatives to the Preferred Alternative location, including location, infrastructure considerations (roads, utilities, power) being within the NYPA Hydropower Zone, development costs, land acquisition and natural resource impacts (Sheet 7 of 20).

1. Alabama Site A-1: This site is approximately 2,041 acres in size and located on the northeast corner of State Route 77 and Judge Road, in the Town of Alabama. 246 acres of the site is owned by NYSDEC and managed for wildlife at the John White WMA. This alternative was impracticable due to a lack of willingness by key property owners to sell their properties for the project. Other factors weighed against this alternative were the added development costs associated with internal roadways, power line extensions. Potential wetlands impacts in comparison with the Preferred Alternative would be more significant.
2. Alabama Site A-2: This site is approximately 1,154 acres in size and is located on the southeast corner of the State Route 77 and Judge Road. This size meets the basic size and topography requirements for STAMP and it is also within the NYPA hydropower zone. However, this alternative was determined to be less viable than the preferred because the overall developments costs are more and as well as potential impacts to strategic farmland and conservation easements. In comparison to potential wetland impacts with the Preferred Alternative, impacts would be more significant at the Alabama Site A-2.
3. Batavia Site: This site is approximately 871 acres in size and is located at the southwest corner of State Route 98 and Batavia-Elba Townline Road. This site is located closer to key infrastructure than the other alternatives. In addition, there were limited wetlands on this site and therefore impacts would be less than the Preferred Alternative. However this site is impracticable because it isn't in the NYPA hydropower zone, and key landowners were unwilling to sell property to the Applicant. Other factors that weighed against this alternative were higher development costs associated with land value and power line extensions compared to the Preferred Alternative.
4. Elba site: This site is approximately 1,739 acres in size and is located at the northeast corner of State Route 98 and Batavia-Elba Townline Road. This site met the basic size



and topographic requirements for STAMP, as well as impacts to wetlands and streams when compared to the Preferred Alternative. However, this alternative was determined to be impracticable due to its location outside of the NYPA hydropower zone, as well as lack of willingness on the part of key landowners to sell their property to the Applicant. Other factors that weighed against this alternative were the added development costs associated with power line extensions.

5. Preferred Alternative (Alabama Site A-3): The Preferred Alternative site meets the basic size and topographic requirements for WNY STAMP. The site is located in the NYPA hydropower zone, and is adjacent to a Genesee County Smart Growth Plan designated development area. More importantly, this site was determined to be practicable due to a willingness on key property owners to sell their property to the Applicant. Other favorable factors were the lower development costs and limited impacts to strategic farmland and impacts to wetlands and streams were less when compared to the other alternatives.

**On-site Alternatives:** Many design iterations were developed and evaluated with a goal to avoid and minimize impacts to natural resources at the site while meeting the design criteria and the physical planning assumptions necessary to support semiconductor manufacturing. Initially, project plans called for 69 acres of impacts to wetlands, but further avoidance and minimization efforts reduced impacts to 9.54 acres. Further avoidance and minimizations efforts were done through a series of design iterations to achieve industry requirements and avoid additional impacts to wetlands resulting in the LEDPA (least environmentally damaging practicable alternative) of 4.24 acres of impacts to wetlands and 9,446 linear feet of impacts to streams. These alternatives (series, A, B and C) are summarized below.

1. The A series of design alternatives (A1-A4, Sheets 8-11 of 20) examined rerouting a portion of Crosby Road but maintaining the existing location of the 115kV National Grid power lines and homes along the north end of Crosby Road. None of the A series designs met industry layout requirements and most of them resulted in greater impacts to wetlands and streams compared to the Preferred Alternative.
2. The B series includes two alternatives (B1, B2 Sheets 12-13 of 20) that required rerouting a portion of Crosby Road and rerouting the 115kV NGRID power line. While B2 minimally met the layout requirements both B1 and B2 resulted in greater impacts to wetlands and streams.
3. The C series includes two alternatives (C1, C2 Sheets 14-15 of 20) which both met industry requirements but resulted in greater impacts to wetlands and streams.
4. Preferred Alternative (LEDPA): The preferred alternative (Sheet 3 of 20) design meets industry layout requirements for high technology manufacturing and avoids impacts to aquatic resources to the maximum extent practicable. Impacts to wetlands and streams have been reduced to 4.24 acres and 9,446 linear feet of stream to the maximum extent practicable that would still result in a viable project that could achieve the basic and



overall project purpose.

Tributary 3 Reroute:

Tributary 3 flows across a majority of the project site and drains into Wetland 2, which is part of the large complex of wetlands in the northwest corner of the project site. The anchor development of the proposed project will cut off the existing drainage of Tributary 3 across that portion of the site. The applicant has developed 4 Option Reroute Alternatives Sheet (Sheet 16-19 of 20) for Tributary 3. Option 1, 2 and 4 are not the LEPDA due to the fact that costs associated with piping Tributary 3 were much higher than the preferred alternative and with these options, Wetland 27 would be bypassed and therefore there would no longer be a water source for Wetland 27. The preferred alternative is to reroute Tributary 3 through a pipe a short distance south along Crosby Road and then toward Wetland 27. Flow will be diverted from Wetland 27 through a swale into Tributary 5 where it will join with the wetland complex to the west and northwest of the project site. This Option 3 is considered the LEDPA because it maximizes surface flow through existing wetlands and has decreased costs associated with piping around and beneath the proposed project area.

**PROPOSED MITIGATION:** An on-site conceptual mitigation plan (Sheet 20 of 20) has been developed to compensate for unavoidable impacts to 4.24 acres of wetlands and approximately 9,446 linear feet of stream. Mitigation will occur on-site. In total, as part of the mitigation plan, 323 acres of wetlands on-site will be preserved in perpetuity. The protected mitigation area includes 101 acres of existing wetlands, approximately 8.50 acres to be restored (2:1 ratio), approximately 15 acres of enhanced wetlands (invasive species management) and 27,099 linear feet of stream. Approximately 14,189 linear feet of the protected stream length will be enhanced by restoring riparian buffer (tree and shrub planting within 100 feet along each side of the stream). The remaining acreage comprising the mitigation area is protected as additional upland buffer.

Location and details of the above described work are shown on the attached maps and drawings. Comments, questions or requests for additional information pertaining to the work described in this notice should reference the Application Number and be directed to the attention of Molly Connerton, who can be contacted at the above address, by calling (716) 879-4304, or by e-mail at: [molly.a.connerton@usace.army.mil](mailto:molly.a.connerton@usace.army.mil). A lack of response will be interpreted as meaning that there is no objection to the work as proposed.

Water Quality Certification (or waiver thereof) from the New York State Department of Environmental Conservation.

The project permit area, as shown on Sheet 1 of 20, is located within an archaeologically sensitive area identified by the New York State Office of Parks, Recreation and Historic Preservation (NYSOPRHP). This notice constitutes initiation of consultation with the NYSOPRHP per Section 106 of the National Historic Preservation Act. All currently available historic resource information pertaining to this proposed project if any has been provided to the NYSOPRHP. Additional information concerning historic properties should be submitted to the Corps before the end of the comment period of this notice. The Corps will forward that



information to the NYSOPRHP for their review.

Pursuant to Section 7 of the Endangered Species Act (16 U.S.C. 1531), the Corps of Engineers is consulting, under separate cover, with the USFWS to evaluate any potential impacts to:

**Houghton's goldenrod (*Solidago houghtonii*), Bog turtle (*Clemmys mullenbergii*), Eastern Massasauga (*Sistrurus catenatus*), Northern long-eared bat (*Myotis septentrionalis*)** to ensure that the proposed activity is not likely to jeopardize their continued existence or result in the destruction or adverse modification of critical habitat.

Comments submitted in response to this notice will be fully considered during the public interest review for this permit application. All written comments will be made a part of the administrative record which is available to the public under the Freedom of Information Act. The Administrative Record, or portions thereof, may also be posted on a Corps of Engineers internet web site. Due to resource limitations, this office will normally not acknowledge the receipt of comments or respond to individual letters of comment.

Any individual may request a public hearing by submitting their written request, stating the specific reasons for holding a hearing, in the same manner and time period as other comments.

Public hearings for the purposes of the Corps permit program will be held when the District Commander determines he can obtain additional information, not available in written comments, that will aid him in the decision making process for this application. A Corps hearing is not a source of information for the general public, nor a forum for the resolution of issues or conflicting points of view (witnesses are not sworn and cross examination is prohibited). Hearings will not be held to obtain information on issues unrelated to the work requiring a permit, such as property ownership, neighbor disputes, or the behavior or actions of the public or applicant on upland property not regulated by the Department of the Army. Information obtained from a public hearing is given no greater weight than that obtained from written comments. Therefore, you should not fail to make timely written comments because a hearing might be held.

The decision to approve or deny this permit request will be based on an evaluation of the probable impact, including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof; among these are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and in general, the needs and welfare of the people.

The Corps of Engineers is soliciting comments from the public; Federal, state and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of

Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

**SIGNED**

Diane C. Kozlowski  
Chief, Regulatory Branch

NOTICE TO POSTMASTER: It is requested that this notice be posted continuously and conspicuously for **30** days from the date of issuance.

